

Montana Department of Natural Resources and Conservation
Water Resources Division
Water Rights Bureau

ENVIRONMENTAL ASSESSMENT
For Routine Actions with Limited Environmental Impact

Part I. Proposed Action Description

1. Applicant/Contact name and address:
HOME 40 HOMEOWNERS ASSOCIATION
1668 BUCKRAKE AVE
BOZEMAN, MT 59718
2. Type of action: Application for Beneficial Water Use Permit No. 41H 30159301 by Home 40 Homeowners Association
3. Water source name: Hyalite Creek
4. Location affected by project: The point of diversion is the Hoy Ditch headgate in the SENWNW Section 14, Township 3 S, Range 5 E, Gallatin County. The place of use is generally located in the SW Section 2, Township 3S, Range 5E, Gallatin County.
5. Narrative summary of the proposed project, purpose, action to be taken, and benefits: The Applicant proposes to divert water from Hyalite Creek, by means of the Hoy Ditch headgate, from May 1st to November 1st inclusive of each year at 2.24 cubic feet per second (CFS) up to 192.43 acre-feet (AF) for fisheries use from January 1st to December 31st inclusive of each year. This proposed appropriation is associated with Statements of Claim (SOCs) 41H 15358-00 and 41H 15849-00 owned by the Home 40 LLC, which were part of Change Authorization 41H 30143744. The common elements between the proposed appropriation and existing appropriation are a shared point of diversion (POD), means of conveyance through the Hoy Ditch, and places of storage. The operation of the proposed appropriation is entirely dependent on the diversion schedule and operation of Change Authorization 41H 30143744 as a condition of issuance of a beneficial water use permit by the Department as a result of this Application. Figure 1 shows a map of the project location.

The proposed use is completely non-consumptive. The DNRC shall issue a water use permit if an applicant proves the criteria in 85-2-311 MCA are met.

41H 30159301 Home 40 Homeowners Association Beneficial Use Permit

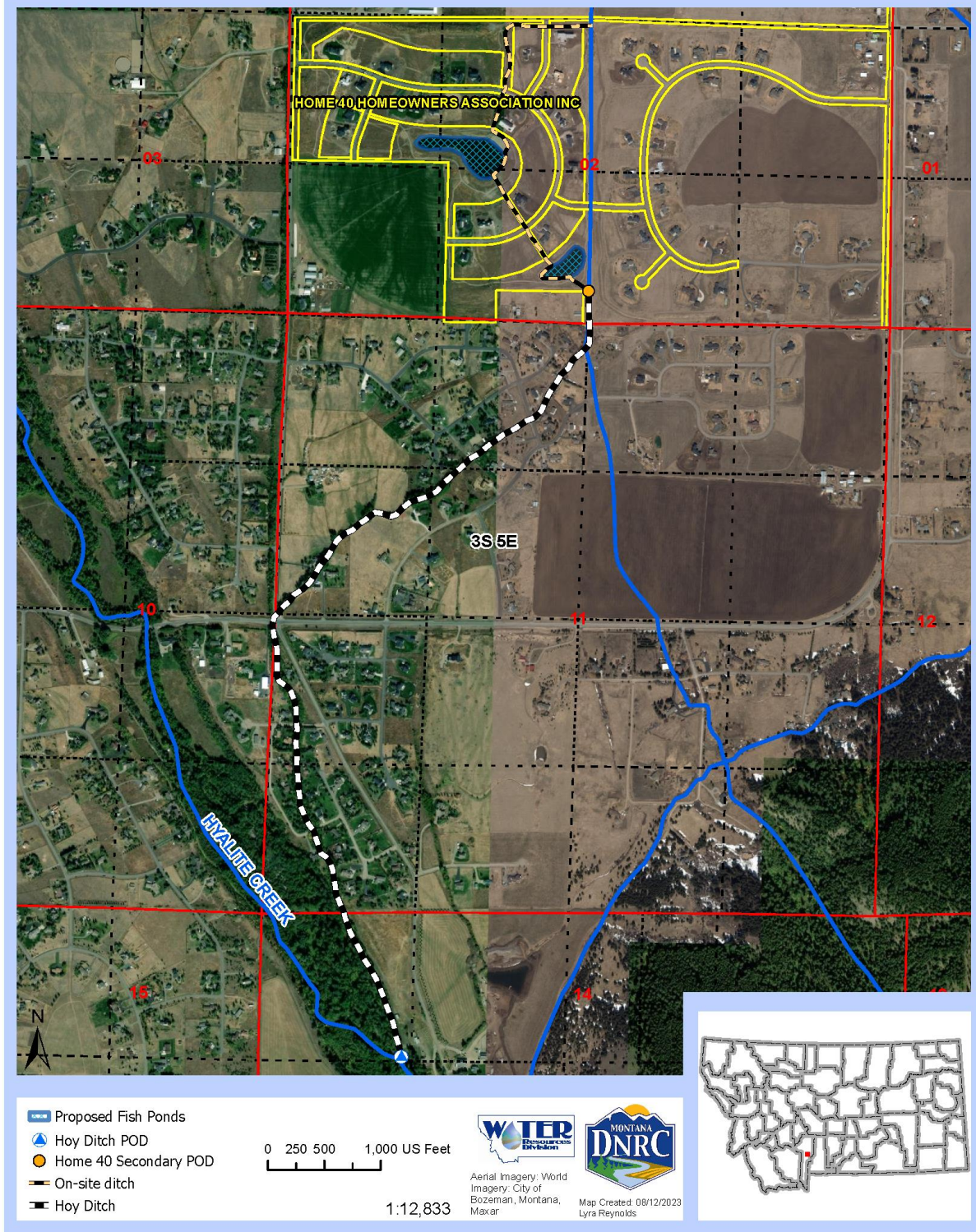


Figure 1. Map of the Proposed Project by Home 40 Homeowners Association

6. Agencies consulted during preparation of the Environmental Assessment:
- Montana Department of Fish, Wildlife & Parks (FWP) – Dewatered Streams Page 3 of 4
https://gis-mtftp.opendata.arcgis.com/datasets/e0849312c41b415992a075f8696164c8_0/explore?location=46.751212%2C-110.425168%2C7.85
 - Montana Department of Environmental Quality (DEQ) – Clean Water Act Information Center (CWAIC) <https://clean-water-act-information-center-mtdeq.hub.arcgis.com/>
 - Montana National Heritage Program (MTNHP) – Natural Heritage Map Viewer
<https://mtnhp.org/mapviewer/?t=7>
 - U.S. Fish & Wildlife Service (USFWS) – National Wetlands Inventory Wetlands Mapper
<https://www.fws.gov/program/national-wetlands-inventory/wetlands-mapper>
 - Natural Resource Conservation Service (NRCS) – Web Soil Survey (WSS)
<https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx>

Part II. Environmental Review

1. Environmental Impact Checklist:

PHYSICAL ENVIRONMENT

WATER QUANTITY, QUALITY AND DISTRIBUTION

Water quantity - Assess whether the source of supply is identified as a chronically or periodically dewatered stream by DFWP. Assess whether the proposed use will worsen the already dewatered condition.

Determination: No significant impact identified.

As determined by a search of the FWP Dewatered Streams site, conducted on December 12, 2023, 19.94 miles of Hyalite Creek are listed as chronically dewatered. Part of the chronically dewatered river segment is adjacent to the Home 40 LLC property included in this permit application. The proposed project is entirely dependent on the diversion schedule and operation of Change Authorization 41H 30143744 as a condition of issuance of a beneficial water use permit by the Department as a result of this Application. The proposed use is entirely non-consumptive and there will be no change in demands on the source. The proposed permit is unlikely to further contribute to dewatering of Hyalite Creek.

Water quality - Assess whether the stream is listed as water quality impaired or threatened by DEQ, and whether the proposed project will affect water quality.

Determination: No significant impact identified.

A December 13, 2023, search of DEQ Impaired Waters 2020 data on the CWAIC identified Hyalite Creek, from Bozeman water supply intake to the proposed Permit 41H 30159301 point of diversion, Hoy Ditch headgate, Section 23, T3S, R5E, is not fully supporting Aquatic Life and Primary Contact Recreation due to high nitrogen levels and flow regime medication from crop

production, pasture grazing, natural sources, and leaking underground storage tanks. Drinking Water and Agricultural beneficial uses have not been assessed for this reach. The proposed project is entirely non-consumptive and is unlikely to further contribute to water quality degradation. Water diverted is entirely dependent on the diversion schedule and operation of Change Authorization 41H 30143744 as a condition of issuance of a beneficial water use permit by the Department as a result of this Application.

Groundwater - *Assess if the proposed project impacts ground water quality or supply. If this is a groundwater appropriation, assess if it could impact adjacent surface water flows.*

Determination: No significant impact.

The source of the proposed project is surface water, and there is not a groundwater diversion component.

DIVERSION WORKS - *Assess whether the means of diversion, construction and operation of the appropriation works of the proposed project will impact any of the following: channel impacts, flow modifications, barriers, riparian areas, dams, well construction.*

Determination: No significant impact.

The diversion works for the proposed project are already in place, as the proposed project is entirely dependent on diversion operations authorized by Change Authorization 41H 30143744. The diversion is the Hoy Ditch headgate, operated by the Hoy Ditch Company, which has been in place for a number of years. The proposed project will not require any new diversion works to be installed or alter existing diversion works, and it is unlikely to impact channels, flow, or riparian areas.

UNIQUE, ENDANGERED, FRAGILE OR LIMITED ENVIRONMENTAL RESOURCES

Endangered and threatened species - *Assess whether the proposed project will impact any threatened or endangered fish, wildlife, plants or aquatic species or any "species of special concern," or create a barrier to the migration or movement of fish or wildlife. For groundwater, assess whether the proposed project, including impacts on adjacent surface flows, would impact any threatened or endangered species or "species of special concern."*

Determination: No significant impact.

A December 14, 2023, search of the MTNHP website of Section 2, T3S, R5E, Gallatin County returned the following results:

- 26 animal Species of Concern: Canada Lynx, Grizzly Bear, Hoary Bat, Little Brown Myotis, Townsend's Big-eared Bat, Wolverine, American Goshawk, Black Rosy-Finch, Black-billed Cuckoo, Bobolink, Brewer's Sparrow, Brown Creeper, Cassin's Finch, Clark's Nutcracker, Evening Grosbeak, Golden Eagle, Great Blue Heron, Great Gray Owl, Green-tailed Towhee, Lewis's Woodpecker, Long-billed Curlew, Pacific Wren, Pileated Woodpecker, Varied Thrush, Veery, Westslope Cutthroat Trout
- 0 animal Potential Species of Concern
- 1 animal Special Status Species: Bald Eagle

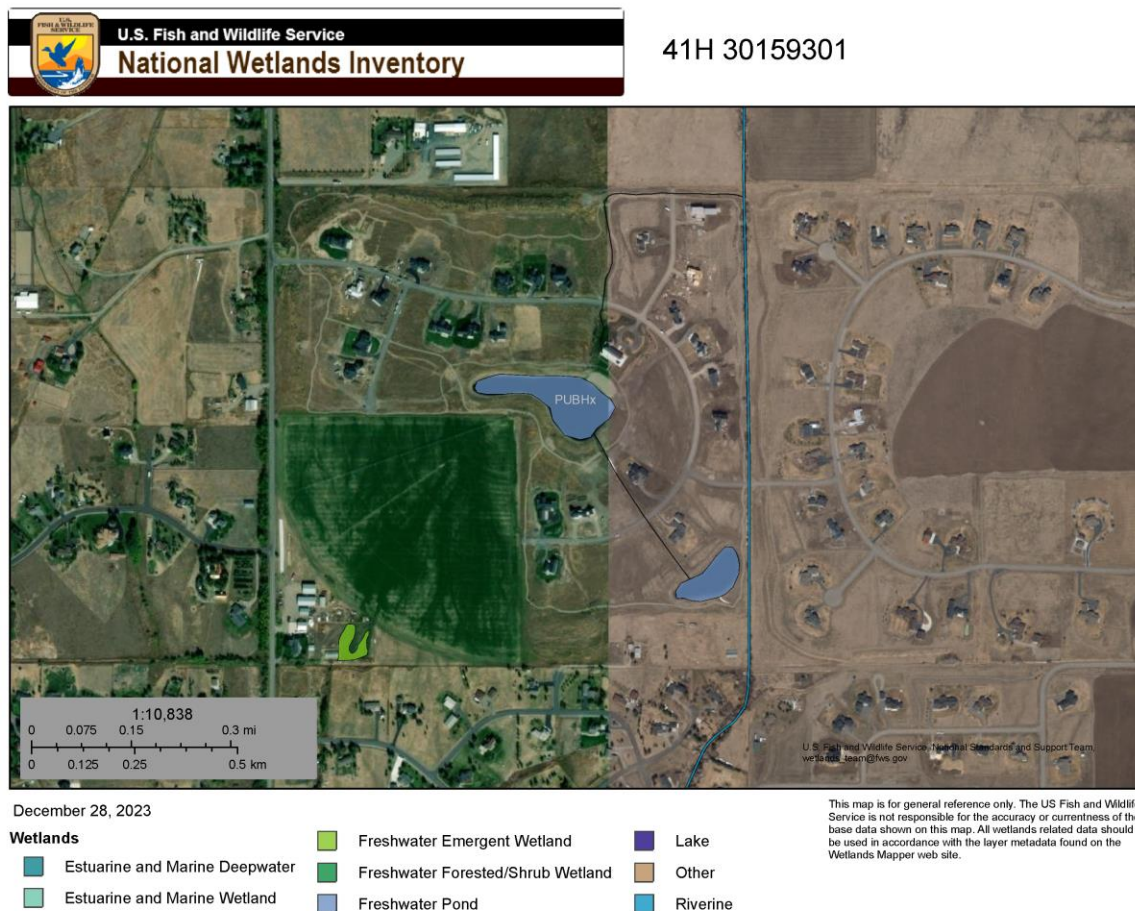
- 3 plant Species of Concern: Slender Cottongrass, Rocky Mountain Twinpod, Whitebark Pine
- 2 plant Potential Species of Concern: Small Yellow Lady's-slipper, Slender Wedgegrass
- 0 plant Special Status Species

It is unlikely the proposed project will impact threatened or endangered species, as the project is entirely reliant on existing diversion operations and schedule. The proposed project does not increase demand on the source. The proposed fishery habitats have fish screens in place to avoid fish migration out of the ponds and into the source.

Wetlands - Consult and assess whether the apparent wetland is a functional wetland (according to COE definitions), and whether the wetland resource would be impacted.

Determination: No significant impact.

A December 14, 2023, search of the National Wetlands Inventory Mapper identified no wetlands in the proposed project area. There are two freshwater ponds in the proposed project area. The proposed project will not impact any wetlands as it is completely dependent on diversions and operations already authorized by Change Authorization 41H 30143744.



Ponds - For ponds, consult and assess whether existing wildlife, waterfowl, or fisheries resources would be impacted.

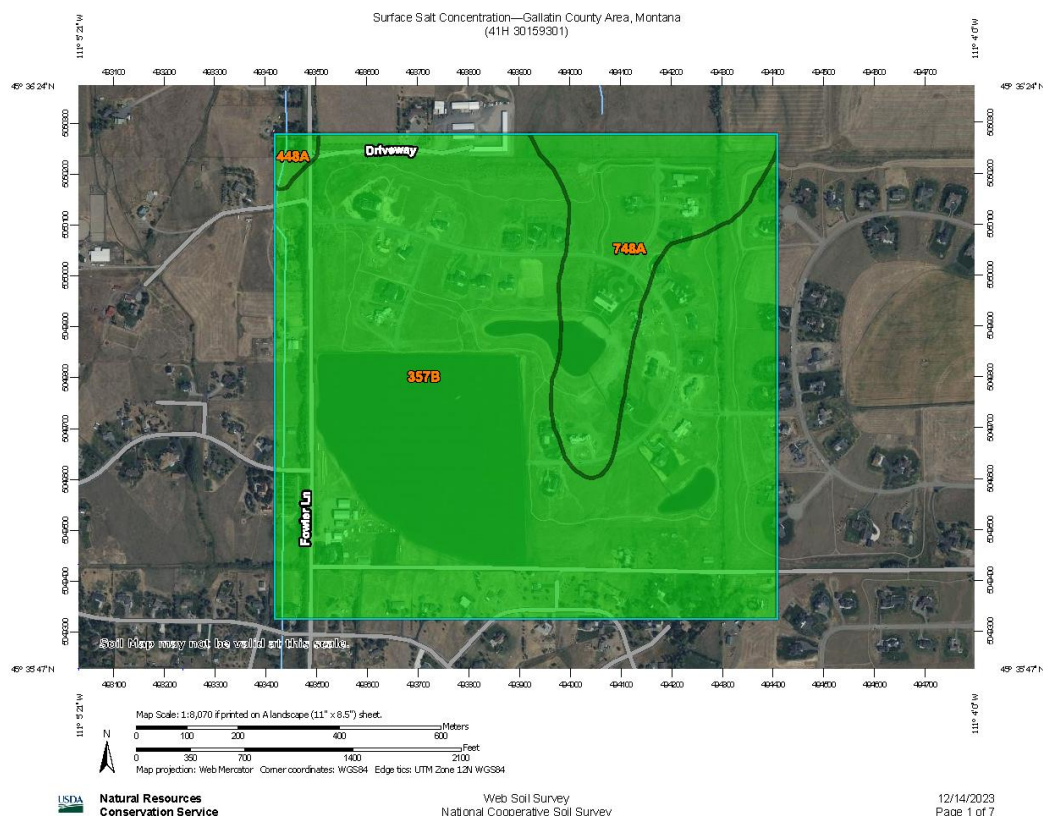
Determination: No significant impact.

The proposed project involves two ponds. The ponds are already constructed and filled. This proposed project will not involve any changes to the capacity or surface area of the ponds. The ponds will be stocked with fish in accordance with guidance from Montana Fish, Wildlife, and Parks. There are no impacts to wildlife, waterfowl, or other fisheries expected from stocking fish in the ponds, and the ponds have screens installed so fish cannot migrate out of the ponds.

GEOLOGY/SOIL QUALITY, STABILITY AND MOISTURE - Assess whether there will be degradation of soil quality, alteration of soil stability, or moisture content. Assess whether the soils are heavy in salts that could cause saline seep.

Determination: No significant impact.

The infrastructure for the ponds is already constructed. No additional construction will be necessary. The soil moisture of the place of use will not change as no water will be applied to fields as a result of the proposed project. A December 14, 2023, search of the NRCS WSS did not identify any saline seeps in the project area.



VEGETATION COVER, QUANTITY AND QUALITY/NOXIOUS WEEDS - *Assess impacts to existing vegetative cover. Assess whether the proposed project would result in the establishment or spread of noxious weeds.*

Determination: No significant impact identified.

The infrastructure required for the ponds is already constructed. This proposed project should not promote the establishment of noxious weeds. Under Montana law, private landowners are responsible for noxious weed control on their property.

AIR QUALITY - *Assess whether there will be a deterioration of air quality or adverse effects on vegetation due to increased air pollutants.*

Determination: No significant impact.

The proposed project will not impact air quality.

HISTORICAL AND ARCHEOLOGICAL SITES - *Assess whether there will be degradation of unique archeological or historical sites in the vicinity of the proposed project if it is on State or Federal Lands. If it is not on State or Federal Lands simply state NA-project not located on State or Federal Lands.*

Determination: No significant impact identified.

The project is not located on State or Federal lands. The Applicant did not mention significant historical or archeological sites in the proposed project area.

DEMANDS ON ENVIRONMENTAL RESOURCES OF LAND, WATER, AND ENERGY - *Assess any other impacts on environmental resources of land, water and energy not already addressed.*

Determination: No significant impact identified.

There are no impacts on environmental resources of land, water, and energy not already addressed.

<h2>HUMAN ENVIRONMENT</h2>

LOCALLY ADOPTED ENVIRONMENTAL PLANS AND GOALS - *Assess whether the proposed project is inconsistent with any locally adopted environmental plans and goals.*

Determination: No significant impact identified.

This proposed permit is for non-consumptive fisheries use, which is a recognized beneficial use of water within the State of Montana and in Gallatin Valley.

ACCESS TO AND QUALITY OF RECREATIONAL AND WILDERNESS ACTIVITIES - Assess whether the proposed project will impact access to or the quality of recreational and wilderness activities.

Determination: No significant impact identified.

The proposed project is located entirely on private property and will not affect access to recreational activities or the quality of recreational and wilderness activities.

HUMAN HEALTH - Assess whether the proposed project impacts on human health.

Determination: No significant impact identified.

This project will not impact human health.

PRIVATE PROPERTY - Assess whether there are any government regulatory impacts on private property rights.

Yes___ No X If yes, analyze any alternatives considered that could reduce, minimize, or eliminate the regulation of private property rights.

Determination: No significant impact identified.

This project does not impact government regulations on private property rights.

OTHER HUMAN ENVIRONMENTAL ISSUES - For routine actions of limited environmental impact, the following may be addressed in a checklist fashion.

Impacts on:

- (a) Cultural uniqueness and diversity? No significant impact
- (b) Local and state tax base and tax revenues? No significant impact
- (c) Existing land uses? No significant impact
- (d) Quantity and distribution of employment? No significant impact
- (e) Distribution and density of population and housing? No significant impact
- (f) Demands for government services? No significant impact
- (g) Industrial and commercial activity? No significant impact
- (h) Utilities? No significant impact
- (i) Transportation? No significant impact
- (j) Safety? No significant impact

(k) Other appropriate social and economic circumstances? No significant impact

2. ***Secondary and cumulative impacts on the physical environment and human population:***

Secondary Impacts: No significant secondary impacts identified

Cumulative Impacts: No significant cumulative impacts identified

3. ***Describe any mitigation/stipulation measures:*** The proposed project will be entirely dependent on the diversion and operation schedule authorized by Change Authorization 41H 30143744.

4. ***Description and analysis of reasonable alternatives to the proposed action, including the no action alternative, if an alternative is reasonably available and prudent to consider:*** The no action alternative would be to not permit a fisheries beneficial use to the existing storage ponds and continue irrigation authorized by Change Authorization 41H 30143744.

PART III. Conclusion

1. ***Preferred Alternative:*** The preferred alternative is to grant the proposed beneficial water use permit if an applicant proves the criteria in 85-2-311 MCA are met.

2. ***Comments and Responses:*** None at this time.

3. ***Finding:***

Yes ___ No X Based on the significance criteria evaluated in this EA, is an EIS required?

If an EIS is not required, explain why the EA is the appropriate level of analysis for this proposed action: The EA is the appropriate level of analysis because the proposed project is to add a non-consumptive fishery purpose to existing ponds used for irrigation. The ponds are already constructed. Fisheries are a locally accepted practice and no significant impacts are anticipated. The proposed project is entirely dependent on water diverted by Statement of Claim 41H 15887-00 under Change Authorization 41H 30143744 and will not increase legal demands on the source. None of the identified impacts for any of the alternatives are significant as defined in ARM 36.2.524.

Name of person(s) responsible for preparation of EA:

Name: Lyra Reynolds

Title: Regional Hydro-specialist

Date: December 28, 2023